

SENATE BILL NO. 151

INTRODUCED BY WEINBERG

BY REQUEST OF THE DEPARTMENT OF COMMERCE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A REQUEST FOR DESIGNATION BY THE DEPARTMENT OF COMMERCE AS A RESORT AREA OR RESORT COMMUNITY MUST BE MADE IN WRITING BY A RESIDENT OF THE AREA OR MUNICIPALITY; CLARIFYING THE POPULATION REQUIREMENT ~~FOR RESORT AREAS AND DELETING~~ REVISING THE POPULATION REQUIREMENT FOR RESORT COMMUNITIES; REQUIRING THAT A VOTE ON WHETHER TO IMPOSE A RESORT TAX MUST BE CONDUCTED WITHIN 5 YEARS OF THE RESORT DESIGNATION; PROVIDING RULEMAKING AUTHORITY TO THE DEPARTMENT OF COMMERCE REGARDING RESORT AREA OR RESORT COMMUNITY DESIGNATION; AMENDING SECTIONS 7-6-1501 AND 7-6-1504, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-6-1501, MCA, is amended to read:

"7-6-1501. Resort tax -- definitions. As used in 7-6-1501 through 7-6-1509, the following definitions apply:

(1) (a) "Luxuries" means any gift item, luxury item, or other item normally sold to the public or to transient visitors or tourists.

(b) The term does not include food purchased unprepared or unserved, medicine, medical supplies and services, appliances, hardware supplies and tools, or any necessities of life.

(2) "Medical supplies" means items that are sold to be used for curative, prosthetic, or medical maintenance purposes, whether or not prescribed by a physician.

(3) "Medicine" means substances sold for curative or remedial properties, including both physician prescribed and over-the-counter medications.

(4) "Resort area" means an area that:

(a) is an unincorporated area and is a defined contiguous geographic area;

(b) has, prior to designation by the department of commerce, a population of less than 2,500 according

1 to the most recent federal census or federal estimate;

2 (c) derives the major portion of its economic well-being from businesses catering to the recreational and
3 personal needs of persons, ~~especially vacationers~~, traveling to or through the area for purposes not related to
4 their income production; and

5 (d) has, upon the written request of a person who is a resident of the area, been designated by the
6 department of commerce as a resort area prior to its establishment by the county commissioners as provided
7 in 7-6-1508.

8 (5) "Resort community" means a community that:

9 (a) is an incorporated municipality;

10 ~~— (b) has, prior to designation by the department of commerce, a population of less than 5,500 according~~
11 ~~to the most recent federal census or federal estimate;~~

12 (B) HAS, PRIOR TO DESIGNATION BY THE DEPARTMENT OF COMMERCE, A POPULATION OF LESS THAN 8,500
13 ACCORDING TO THE MOST RECENT FEDERAL CENSUS OR FEDERAL ESTIMATE;

14 ~~(e)(b)(c)~~ derives the primary portion of its economic well-being related to current employment from
15 businesses catering to the recreational and personal needs of persons, ~~especially vacationers~~, traveling to or
16 through the municipality for purposes not related to their income production; and

17 ~~(d)(c)(d)~~ has, upon the written request of a person who is a resident of the municipality, been designated
18 by the department of commerce as a resort community."

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20 **Section 2.** Section 7-6-1504, MCA, is amended to read:

21 **"7-6-1504. Resort tax -- election required -- procedure -- notice.** (1) A resort community or area may
22 not impose or, except as provided in 7-6-1505, amend or repeal a resort tax unless the resort tax question has
23 been submitted to the electorate of the resort community or area and approved by a majority of the electors
24 voting on the question. The question must be submitted to the electorate within 5 years of the date that the
25 department of commerce makes the resort area or resort community designation under 7-6-1501, or if the
26 designation occurred prior to [the effective date of this act], the question must be submitted to the electorate prior
27 to [5 years after the effective date of this act].

28 (2) The resort tax question may be presented to the electors of:

29 (a) a resort community by a petition of the electors as provided by 7-1-4130, 7-5-132, and 7-5-134
30 through 7-5-137 or by a resolution of the governing body of the resort community; or

(b) a resort area by a resolution of the board of county commissioners, following receipt of a petition of electors as provided in 7-6-1508.

(3) If a resort area is in more than one county, the resort tax question must be presented to and approved by the electors in the resort area of each county.

(4) The petition or resolution referring the taxing question must state:

(a) the rate of the resort tax;

(b) the duration of the resort tax;

(c) the date when the tax becomes effective, which date may not be earlier than 35 days after the election; and

(d) the purposes that may be funded by the resort tax revenue.

(5) Upon receipt of an adequate petition, the governing body may:

(a) call a special election on the resort tax question; or

(b) have the resort tax question placed on the ballot at the next regularly scheduled election.

(6) (a) Before the resort tax question is submitted to the electorate of a resort community or area, the governing body of the resort community or the board of county commissioners in the county in which the resort area is located shall publish notice of the goods and services subject to the resort tax, in a newspaper that meets the qualifications of subsection (6)(b). The notice must be published twice, with at least 6 days separating publications. The first publication must be no more than 30 days prior to the election and the last no less than 3 days prior to the election.

(b) The newspaper must be:

(i) of general, paid circulation with a second-class mailing permit;

(ii) published at least once a week; and

(iii) published in the county where the election will take place.

(7) The question of the imposition of a resort tax may not be placed before the electors more than once in any fiscal year."

NEW SECTION. Section 3. Rulemaking authority. The department of commerce may adopt rules to implement the provisions of 7-6-1501 relating to the designation of a resort area or community.

NEW SECTION. Section 4. Codification instruction. [Section 3] is intended to be codified as an

1 integral part of Title 7, chapter 6, part 15, and the provisions of Title 7, chapter 6, part 15, apply to [section 3].

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3 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

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